

Memorandum of STEVENS, J.

SUPREME COURT OF THE UNITED STATES

EQUALITY FOUNDATION OF GREATER CINCINNATI,
INC., ET AL. v. CITY OF CINCINNATI ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 97–1795. Decided October 13, 1998

The petition for a writ of certiorari is denied.

Opinion of JUSTICE STEVENS, with whom JUSTICE SOUTER, and JUSTICE GINSBURG join, respecting the denial of the petition for a writ of certiorari.

As I have pointed out on more than one occasion, the denial of a petition for a writ of certiorari is not a ruling on the merits.¹ Sometimes such an order reflects nothing more than a conclusion that a particular case may not constitute an appropriate forum in which to decide a significant issue. In this case, the Sixth Circuit held that the city charter “merely removed municipally enacted special protection from gays and lesbians.”² *Equality*

¹ *Brown v. Texas*, 118 S. Ct. 355, 356 (1997); *Lackey v. Texas*, 514 U. S. 1045, 1047 (1995); *Tennessee v. Barber*, 513 U. S. 1184, 1184 (1995).

²The relevant amendment to the city charter reads,

“The City of Cincinnati and its various Boards and Commissions may not enact, adopt, enforce or administer any ordinance, regulation, rule or policy which provides that homosexual, lesbian, or bisexual orientation, status, conduct, or relationship constitutes, entitles, or otherwise provides a person with the basis to have any claim of minority or protected status, quota preference or other preferential treatment. This provision of the City Charter shall in all respects be self-executing. Any ordinance, regulation, rule or policy enacted before this amendment is adopted that violates the foregoing prohibition shall be null and void and of no force or effect.” *Equality Found. of Greater Cincinnati, Inc. v. City of Cincinnati*, 128 F. 3d 289, 291 (CA6 1997).

